

(iii) Revert to the Treasury.

(b) *Required documentation.* (1) Substantiation of the amount(s) requested shall include:

(i) An itemization of the amounts requested related to the various elements of work specified in the contract;

(ii) A listing of the amount included for work performed by each subcontractor under the contract;

(iii) A listing of the total amount for each subcontract under the contract;

(iv) A listing of the amounts previously paid to each subcontractor under the contract; and

(v) Additional supporting data and detail in a form required by the contracting officer.

(2) Certification by the prime vendor is required, to the best of the vendor's knowledge and belief, that:

(i) The amounts requested are only for performance in accordance with the specifications, terms, and conditions of the contract;

(ii) Payments to subcontractors and suppliers have been made from previous payments received under the contract, and timely payments will be made from the proceeds of the payment covered by the certification, in accordance with their subcontract agreements and the requirements of 31 U.S.C. chapter 39; and

(iii) The application does not include any amounts which the prime vendor intends to withhold or retain from a subcontractor or supplier, in accordance with the terms and conditions of their subcontract.

(c) *Interest penalties.* (1) Agencies will pay interest on:

(i) A progress payment request (including a monthly percentage-of-completion progress payment or milestone payments for completed phases, increments, or segments of any project) that is approved as payable by the agency pursuant to paragraph (b) of this section, and remains unpaid for:

(A) A period of more than 14 days after receipt of the payment request by the designated agency office; or

(B) A longer period specified in the solicitation and/or contract if required, to afford the Government a practicable opportunity to adequately inspect the work and to determine the adequacy of

the vendor's performance under the contract;

(ii) Any amounts that the agency has retained pursuant to a prime contract clause providing for retaining a percentage of progress payments otherwise due to a vendor and that are approved for release to the vendor, if such retained amounts are not paid to the vendor by a date specified in the contract, or, in the absence of such a specified date, by the 30th day after final acceptance;

(iii) Final payments, based on completion and acceptance of all work (including any retained amounts), and payments for partial performances that have been accepted by the agency, if such payments are made after the later of:

(A) The 30th day after the date on which the designated agency office receives a proper invoice; or

(B) The 30th day after agency acceptance of the completed work or services. Acceptance shall be deemed to have occurred on the effective date of contract settlement on a final invoice where the payment amount is subject to contract settlement actions.

(2) For the purpose of computing interest penalties, acceptance shall be deemed to have occurred on the seventh day after work or services have been completed in accordance with the terms of the contract.

§ 1315.15 Grant recipients.

Recipients of Federal assistance may pay interest penalties if so specified in their contracts with contractors. However, obligations to pay such interest penalties will not be obligations of the United States. Federal funds may not be used for this purpose, nor may interest penalties be used to meet matching requirements of federally assisted programs.

§ 1315.16 Relationship to other laws.

(a) *Contract Disputes Act of 1978 (41 U.S.C. 605).* (1) A claim for an interest penalty (including the additional penalty for non-payment of interest if the vendor has complied with the requirements of § 1315.9) not paid under this part may be filed under Section 6 of the Contract Disputes Act.

(2) An interest penalty under this part does not continue to accrue after a claim for a penalty is filed under the Contract Disputes Act or for more than one year. Once a claim is filed under the Contract Disputes Act interest penalties under this part will never accrue on the amounts of the claim, for any period after the date the claim was filed. This does not prevent an interest penalty from accruing under Section 13 of the Contract Disputes Act after a penalty stops accruing under this part. Such penalty may accrue on an unpaid contract payment and on the unpaid penalty under this part.

(3) This part does not require an interest penalty on a payment that is not made because of a dispute between the head of an agency and a vendor over the amount of payment or compliance with the contract. A claim related to such a dispute and interest payable for the period during which the dispute is being resolved is subject to the Contract Disputes Act.

(b) *Small Business Act (15 U.S.C. 644(k))*. This Act has been amended to require that any agency with an Office of Small and Disadvantaged Business Utilization must assist small business concerns to obtain payments, late payment interest penalties, additional penalties, or information due to the concerns.

§ 1315.17 Formulas.

(a) *Rebate formula*. (1) Agencies shall determine credit card payment dates based on an analysis of the total benefits to the Federal government as a whole. Specifically, agencies should compare daily basis points offered by the card issuer with the corresponding daily basis points of the government's Current Value of Funds (CVF) rate. If the basis points offered by the card issuer are greater than the daily basis points of the government's funds, the government will maximize savings by paying on the earliest possible date. If the basis points offered by the card issuer are less than the daily basis points of the government's funds, the government will minimize costs by paying on the Prompt Payment due date or the date specified in the contract.

(2) Agencies may use a rebate spreadsheet which automatically calculates the net savings to the government and whether the agency should pay early or late. The only variables required for input to this spreadsheet are the CVF rate, the Maximum Discount Rate, that is, the rate from which daily basis points offered by the card issuer are derived, and the amount of debt. This spreadsheet is available for use on the prompt payment website at www.fms.treas.gov/prompt/index/.html.

(3) If agencies chose not to use the spreadsheet, the following may be used to determine whether to pay early or late. To calculate whether to pay early or late, agencies must first determine the respective basis points. To obtain Daily Basis Points offered by card issuer, refer to the agency's contract with the card issuer. Use the following formula to calculate the average daily basis points of the CVF rate:

$$(CVF/360) * 100$$

(4) For example: The daily basis points offered to agency X by card issuer Y are 1.5 basis points. That is, for every day the agency delays paying the card issuer the agency loses 1.5 basis points in savings. At a CVF of 5 percent, the daily basis points of the Current Value of Funds Rate are 1.4 basis points. That is, every day the agency delays paying, the government earns 1.4 basis points. The basis points were calculated using the formula:

$$(CVF/360) * 100$$

$$(5/360) * 100 = 1.4$$

(5) Because 1.5 is greater than 1.4, the agency should pay as early as possible. If the basis points offered by the card issuer are less than the daily basis points of the government's funds (if for instance the rebate equaled 1.3 basis points and the CVF was still 1.4 basis points or if the rebate equaled 1.5 but the CVF equaled 1.6), the government will minimize costs by paying as late as possible, but by the payment due date.

(b) *Daily simple interest formula*. (1) To calculate daily simple interest the following formula may be used:

$$P(r/360*d)$$

Where: